

CITY COUNCIL MINUTES
February 25, 2008
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, February 25, 2008 at 6:00 p.m. with Mayor Keith Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER
PLEDGE OF ALLEGIANCE

Mayor Nesbitt introduced members of Cub Scout Pack 37, Den 6, who led the Pledge of Allegiance.

ROLL CALL:

Council Members Present: Bob Snyder, Kevin Hanley, J. M. Holmes, Bridget Powers, Keith Nesbitt

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson. City Attorney Michael Colantuono, Community Development Director Will Wong, Associate Planner Lance Lowe, Assistant Planner Reg Murray, Fire Chief Mark D'Ambrogio, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Administrative Services Director Andy Heath, Airport Manager Jerry Martin, Police Chief Valerie Harris

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

Mayor Nesbitt stated that he had a Commendation for Janice Forbes which will be presented by Vice Mayor Holmes at the Placer Land Trust. Mayor Nesbitt read the Commendation aloud.

Mayor Nesbitt said that he would adjourn the evening's meeting in memory of two people. Those people were Bill Lipschultz, an outstanding citizen, who recently passed, and in memory of the Mayor's wife, Ann Davies-Nesbitt, who would have celebrated her 53rd birthday this date.

AGENDA APPROVAL

City Manager Richardson asked that Item 6 be postponed until the next meeting.

CONSENT CALENDAR

1. **Minutes**

By **MOTION** approve City Council Minutes of December 10 and 13, 2007.

2. **Surplus Equipment at Wastewater Treatment Plant**

By **RESOLUTION 08-17** declare as surplus to the City's needs the equipment listed on Exhibit A.

3. **Dispatch Agreement Amendment for Fiscal Years 2007-2008 with the California Department of Forestry and Fire Protection**

By **RESOLUTION 08-18** approve and authorize the Fire Chief to execute the dispatch agreement amendment for Fiscal Years 2007-2008 with the California Department of Forestry and Fire Protection.

***** End of Consent Calendar *****

By **MOTION** approve the Consent Calendar. **MOTION: Holmes/Hanley/ Approved 5:0**

4. **Public Comment**

Council Member Holmes reminded City staff that he and Council Member Hanley had requested recommendations regarding the Blocker Drive property be brought before the Council in March.

PUBLIC HEARING

5. **Appeal of the Planning Commission's Approval of the Auburn Bluffs Subdivision-1120 Lantern View Drive**

Council Member Holmes had to recuse himself because his property abuts the property under consideration. He left the room. Mayor Nesbitt explained that he lives in the Vintage Oaks Subdivision, but well beyond the area that would be considered in conflict. He stated that he would vote.

Associate Planner Lance Lowe stated that the item before the Council is the appeal of the Planning Commission's approval of the Auburn Bluffs Subdivision. The applicant is California Trends Builder Kam Mansourian and the appellant is Robert Knepp who lives adjacent to the project. Mr. Lowe stated that the Planning Commission voted 3:2 for approval. He

explained the project's history, access to the site, property zoning, lot sizes and tree-removal permits. He stated that the project meets all development standards and the developer has agreed to a number of additional architectural and design-related conditions.

Mr. Lowe identified the issues in the appeal: drainage, street width, street usage, building height limitations, CC&Rs, architectural review and public safety. He addressed each issue as outlined in the written staff report. Council questions followed.

Council Member Snyder asked about the powers of a proposed Architectural Review Board as a condition of approval. It was agreed that the applicant would answer the question later in the meeting. Mayor Nesbitt said that he had the same question along with some about the Home Owners Association.

Council Member Hanley inquired about drainage on lots 1 through 12. He said one of the neighbors stated that there would not be proper drainage. He asked for an explanation of the system. Mr. Lowe said the engineer of record would speak to that and the City Engineer would respond to further questions. He asked about "no net" drainage increase.

Mayor Nesbitt asked if individuals violated the law and parked on both sides of the street, could fire emergency vehicles get through. Mr. Lowe answered that they could not. Mayor Nesbitt said that just having an Architectural Review Board that stands alone is of concern to him.

Public Works Director Warren answered the questions regarding drainage. City Attorney Colantuono stated that in his review of the CC&Rs he always requires that "the City be made a party to the CC&Rs for the purposes of enforcing them, if all else fails, and recovering our costs of doing so." Council discussion with Mr. Warren continued regarding drainage alternatives. Mr. Warren assured the Council no residence will be built until the drainage study has been completely examined without effect to the adjacent property.

Mayor Nesbitt introduced the items with which he took issue: visual consistency, floristic survey, water run-off control systems adequate factor of safety, drainage patterns, and parking capacity. Discussion followed with staff addressing Mayor Nesbitt's concerns.

Attorney Marcus LoDuca on behalf of California Trend Builders Group, 3300 Douglas Blvd., Roseville, stated that all project standards have been met. He reviewed the many changes, agreed upon by the developer, to comply with the added stipulations of the Planning Commission, meeting and exceeding City standards. He provided Council with a list of

additional proposed conditions, previously reviewed by City staff. Mr. LoDuca explained that some of the language is directly from residents with whom they had a meeting on the previous Tuesday. Mr. LoDuca responded to Council questions regarding CC&Rs, parking on the streets, and the architectural review.

Subjects of the opposition to the project were the carrying capacity of the land, view blockage, drainage, fire protection, street right-of-way, on street parking, not enough public input at initial meetings, width of roadways, CC&Rs, consistency with the General Plan, architectural issues, specifically building heights on hillside lots, destruction of the natural stability of the ridge, and hillside design for urban-wildland interface.

The following opposed the project:

Lisa Worthington, Planning Commissioner, 171 Tuttle Street
Robert Knepp, Appellant, 1135 Lantern View Drive
Karen Azama-Kihara, 1201 Vintage Way
Gary Targantos, 11070 Sunrise Ridge Circle
Rodney Kihara, 1201 Vintage Way
John Steenkolk, 11100 Sunrise Ridge Circle
Ann Harmon, homeowner (rental property), 11040 Sunrise Ridge Circle
Patty Fitch, 1110 Lantern View Drive, current President of the Auburn Bluffs Home Owners Association
Tim Dewitt, 11050 Sunrise Ridge Circle
Larry Wallis, 10913 Sluicebox Circle
Sandy Conroy, 1128 Humbug Way
Gary Hughes, 11080 Sunrise Ridge Circle
Steve Koltvet, 1200 Bluffs Place

The following supported the project:

John Dunlap, 10905 Sunrise Ridge Circle, stated that he had contacted the developer whose representatives have readily met with members of the Homeowners Association. He said the developer has been very willing to meet with the residents and provide requested information regarding the project. He said his backyard faces the hillside and he is satisfied with finalized development specifications.

Mr. LoDuca responded to the comments made by those who had spoken in opposition to the project and answered Council questions. He addressed the width of the streets, fire safety, project standards, added conditions, general plan policies, architectural rendering, soil studies, building permit requirements, possible power outages, drainage study, and an additional per-unit tax for the School Park Preserve, as a public benefit.

Project Engineer Mr. Bob Barrett informed the Council that PCWA refused to meet with the developer. He said the agency said it was an issue between the City and PCWA. He said PCWA felt it was a public agency issue and not a private property issue.

Mr. Warren explained the flow of the canal. He said PCWA agreed to provide some modifications to the turnout structure, which have been completed. He said City crews completed a modification to the inland structure at the base of the spillway. He said PCWA will continue to maintain its overflow. Mr. Warren advised that if fences were to be placed across PCWA's canal, the agency's approval would be required.

Council Member Powers was provided clarification regarding parking, CC&Rs and fire safety by Community Development Director Will Wong, City Attorney Colantuono and Fire Chief Mark D'Ambrogi, respectively.

Council Member Hanley stated that he has supported a number of infill residential projects because the City should provide housing for residents. He said he did not feel this project was more dense than the originally proposed condominium project. He advised that the Council Members can only deal with the ordinances and the law that is in place when the project is brought to the Council. He said he is satisfied with the fire-safety aspects of the project. He stated his only concern was the drainage issue. He said the developer provided a storm-drainage solution which the Planning Commission favored. He said he would like to see something concrete on the drainage plan and have approval prior to the initiation of the plan.

Council Member Powers said it would allow public comment one more time.

Council Member Snyder stated that he was willing to make an exception to normal procedure, wherein the Council completely defers to staff. He said he would support Council review of the drainage plan. Attorney Colantuono read aloud a condition he drafted with appropriate language so that the entire project would not reopened;

"Before a grading permit may issue the applicant shall submit a drainage plan and analysis sufficient to demonstrate that the project will comply with conditions 38 and 40. When the City Engineer concludes that the plan and analysis satisfy those standards, his conclusion shall be presented to the City Council at a noticed public hearing. The Council shall approve that plan if there is substantial evidence to support the City Engineer's determination, but shall not substitute lay judgment for his professional determination. The goal of this condition is to provide

accountability and transparency to staff's enforcement of conditions 38 and 40, but not to alter the substance of those conditions."

Council Member Hanley questioned whether or not a drainage study provided by a consultant, paid by the developer, could produce a skewed report. Attorney Colantuono stated that consultants have restraints that would most likely keep the report objective. He said consultants are legally responsible for the judgments upon which they put their seal. He advised that they risk their malpractice insurance, their ability to continue to be insured, their professional license and their errors and omission standards. He said the next level of safety is the role of the City Engineer who is interested only in seeing that City standards are met.

Mayor Nesbitt said he had a concern that the wording limits the Council from initiating a decision contrary to what the engineers may say. Attorney Colantuono explained that "substantial evidence" is the kind of evidence that implies that something of importance is at stake. He advised if questions went to technical and professionals standards, and the City Engineer did not have satisfactory answers, the Council would be in the position to deny the approval.

Council Member Snyder said that it is a straight-forward analysis without a lot of room for interpretation. He said his only concern would be the run-off from the roofs and the direction of the water.

Council Member Hanley questioned the terminology of "lay" person in the suggested wording. Attorney Colantuono provided alternate wording: "...and shall not refuse approval in the absence of substantial evidence to justify doing so." Council Member Hanley said his concern was that the Council could overturn it with substantial evidence and asked that "lay" person be removed from the condition.

Mayor Nesbitt stated that he had some concern about some of the mitigation measures that changed and have not been circulated to the public. Council Member Snyder said they have "substituted a methodology that produces the same result, no net increase."

- A. By **RESOLUTION 08-19** adopt the Mitigated Negative Declaration prepared for the Tentative Subdivision Map and Tree Permit as the appropriate level of environmental review in accordance with the California Environmental Quality Act and Guidelines. **MOTION: Snyder/Powers/Approved 3:1 (No Nesbitt, Absent Holmes)**

Council discussion followed with City Attorney Colantuono, Mr. Lowe, Mr. Wong and Mr. LoDuca regarding specific conditions.

Mayor Nesbitt stated that the City needs an update on its hillside ordinances and asked for future support from the Council. He said he is still uncomfortable with the drainage issues of the project and does not like the parking proposal. He said he also has a problem with the building heights and widths. He stated that he was not going to support the project.

Council Member Powers asked about a resident's "dish" being on the wrong side of her property. Attorney Colantuono stated that prior to the issuance of a grading permit a survey will be required to make certain the developer is grading his own land.

- B. By **RESOLUTION 08-20** deny the appeal thereby affirming the Planning Commission's approval of the Auburn Bluffs Subdivision and Tree Permit as presented, including the (1) adoption of "Findings of Fact" for approval of the Tentative Subdivision Map and Tree Permit as presented in the Council Report; and (2) approval of the Tentative Subdivision Map and Tree Permit in accordance with the "Conditions of Approval" as amended by the Planning Commission and presented to the Council, in addition Conditions of Approval 7aa and 7a20, 44b and 37a and tree permit condition no. 5. **MOTION: Hanley/Snyder/Approved 3:1 (No Nesbitt, Absent Holmes)**

[Council Member Holmes returned to the dais.]

REPORTS

6. **Informational Reports from Staff**

Report from Police Chief Valerie Harris postponed until following meeting.

7. **City Council Committee Reports**

None

COUNCIL BUSINESS

8. **Quarterly Report of Investments – Quarter Ending December 31, 2007**

Administrative Services Director Andy Heath introduced the item. He said the investments as of December 31, 2007 were at 6.2 million dollars. He summarized the current period of finance, property tax receipts, expenditures, capital projects funding, current yield, reinvestments, and the composition of the City's portfolio.

By **MOTION** accept "City of Auburn Quarterly Investment Report" for the quarter ending December 31, 2007. **MOTION: Powers/Hanley/Approved by Voice without objection**

9. **Mid-Year Financial Status Report – Fiscal Year 2007-08**

Administrative Services Director Andy Heath introduced the item. He provided a report on the City's fiscal affairs for fiscal year 2007-2008. He provided an overview of the general fund, enterprise funds, and other major funds and provided an update on capital projects. Mr. Heath then advised Council of the upcoming 2008-2009 budget.

A. By **RESOLUTION 08-21**

- 1) Decrease the estimate for earned revenue in the City's General Fund by \$135,000;
- 2) Increase the estimate for earned revenue in the City's Airport Fund by \$59,105; and Facilities and Equipment Replacement Fund by \$25,000

MOTION: Holmes/Snyder/Approved 5:0

B. By **RESOLUTION 08-22** increase the appropriation for expenditures in the City's

- 1) General Fund by \$22,069; and
- 2) Airport Fund by \$155,000.

MOTION: Holmes/Snyder/Approved 5:0

C. By **RESOLUTION 08-23** decrease the Payroll Liability Obligation Reserve by \$54,304.

MOTION: Holmes/Snyder/Approved 5:0

D. By **RESOLUTION 08-24** authorize the City Manager to meet and confer with appropriate labor organizations on the impact of administrative reorganization to the extent permitted by law, including any layoffs, reduction in rank, and extending service credit for selected employees.

MOTION: Holmes/Snyder/Approved 5:0

E. By **RESOLUTION 08-25** authorize the City Manager to explore with CalPERS the option of two-year service credit for employees affected by impending curtailment of, or change in the manner of performing City services pursuant to Section 20903 of the California Public Employees Retirement Law.

MOTION: Holmes/Snyder/Approved 5:0

ADJOURNMENT

Mayor Nesbitt, without objection, adjourned the meeting at 11:08 p.m. in memory of Bill Lipschultz and Ann Davies-Nesbitt.

Keith Nesbitt, Mayor

Joseph G. R. Labrie, City